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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In the Matter of the Application of San Diego Gas & Electric Company and Southern California Gas Company for Authority to Integrate Their Gas Transmission Rates, Establish Firm Access Rights, and Provide Off-System Gas Transportation Services.	A.04-12-004 (Phase II)

SOUTHERN CALIFORNIA GENERATION COALITION COMMENTS ON PROPOSED DECISION

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SOUTHERN CALIFORNIA GENERATION COALITION
COMMENTS ON PROPOSED DECISION

In accordance with Rule 14.5 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission") the Southern California Generation Coalition ("SCGC") respectfully submits this Comment on the Proposed Decision ("PD") of Administrative Law Judge ("ALJ") Wong, as mailed on October 31, 2006.

SCGC congratulates ALJ Wong, Assigned Commissioner Brown, and the Assigned Commissioner's Office for accomplishing the Herculean task of generating both a PD and an Alternate PD ("APD")[1] within just a little more than a month after this controversial and complex case was submitted on September 27, 2006. The record encompasses 111 exhibits, 2,483 transcript pages, and 1,141 pages of opening and reply briefs.

Unfortunately, the PD errs by jettisoning the existing well-functioning and economically efficient market structure in southern California in favor of the Southern California Gas Company ("SoCalGas") and San Diego Gas & Electric Company ("SDG&E") flawed proposal to sell "firm access rights" ("FAR"). The FAR program is unnecessary and unsupported by the record.

Instead of solving problems, the FAR program would cause problems. The proposed access charges would raise costs for, particularly, electric generators ("EGs"). Simultaneously, reliability

[1] The PD and APD are the same except for the passage regarding peaking rate issues.

would be reduced as a result of imposing one more hurdle, the need to acquire access rights, as an obstacle to overcome in transporting gas into southern California. This would be done at precisely the same time that there will be heightened California reliance on gas-fired generation.

The Governor, the Legislature, and this Commission have joined in support of a statewide Greenhouse Gas ("GHG") emission reduction policy. Gas-fired generation contributes to GHG reduction by backing out coal-fired generation. Gas-fired generation also contributes by providing dispatchable capacity that can be used to firm deliveries of energy from intermittent renewable energy resources such as wind. Imposing access charges and the FAR market structure would conflict directly with California's GHG reduction policy. The focus should be on making it easier and less costly to burn gas, not more difficult. The PD's adoption of the FAR structure should be reversed, and the current market structure should be retained.

I. THE PD'S EVALUATION OF THE NEED TO REPLACE THE CURRENT MARKET STRUCTURE IS UNSUPPORTED BY THE RECORD.

The primary issue in this proceeding is "whether the Commission should adopt a system of FAR as a gas market structure for SDG&E and SoCalGas, or should it retain the current system of allocating capacity …." PD at 8. The PD approves substituting FAR for the current market structure only by coming to conclusions that are unsupported by the record.

A. The PD Mischaracterizes the Reliability of Access to the SoCalGas/SDG&E System.

The PD contends: "No one disputes that under SoCalGas' current system of capacity allocation that all transmission is on an interruptible basis." PD at 65. Parties contested that view through dozens of pages of prepared testimony and briefs. Today, SoCalGas offers transmission service that is firm under SoCalGas' own definition of "firm." The record shows beyond dispute that SoCalGas transmission service under the current system is highly reliable. SoCalGas/SDG&E's standard for what constitutes "firm" service is 97 percent reliability. Exhibit ("Ex.") 92, Attachment

("Att.") D at 6. Gas that is nominated for delivery into the North Desert Transmission Zone ("NDTZ") flows with 99.8 percent certainty. SCGC Opening Brief ("OB") at 8. Gas that is nominated for delivery into the Wheeler Ridge Zone flows with 98-99 percent certainty. *Id.* SoCalGas' transmission service is firm by SoCalGas' own standard. SCGC OB at 10-14.

Given that the record unequivocally establishes that, today, transmission service on the SoCalGas system is "firm" by any reasonable operational definition, the PD goes on to speculate that "with the possibility of LNG supplies flowing into southern California, and other changes in the gas market, receipt point constraints may occur again at other receipt points" in the future. PD at 65. However, the record shows that the probability of SoCalGas transmission becoming more constrained is low. SoCalGas projects declining load on its system. Furthermore, supply patterns are changing. As a result, both the NDTZ and the Wheeler Ridge zone are likely to be even less constrained in the future than they are now. Both the current capacity allocation methodology in the NDTZ and the methodology used in the Wheeler Ridge Zone are likely to continue to work well. SCGC OB at 10-13.

As for the Southern System, SoCalGas, itself, says it expects "that 'displacement' capacity will satisfy all of the 15-year shipper interest for new receipt points in that [Southern] zone." Ex. 92, Att. E. Furthermore, new construction by North Baja Pipeline, LLC ("North Baja") may further reduce the chance of constraints on the SoCalGas Southern System. On October 6, 2006, the Federal Regulatory Energy Commission ("FERC") issued a "Preliminary Determination" that North Baja should receive a certificate for a pipeline that will extend from an interconnection with other pipelines at the United States/Mexico border to interconnections with El Paso Gas Transmission Company ("El Paso") and SoCalGas. North Baja Pipeline, when fully expanded, will import up to 2.7 Bcf per day of LNG from Mexico to California and Arizona markets. 117 FERC ¶ 61,022 (Oct. 6, 2006). North Baja deliveries to El Paso will be likely to reduce physical deliveries of gas from El Paso into the SoCalGas system at Ehrenberg (Blythe) and may even result in reversal of what is currently a westward flow on the El Paso system to SoCalGas. That would tend to unload the SoCalGas Southern System. Additionally, the North Baja pipeline will extend a 110 MMcf/d lateral to El Centro in the Imperial Valley, further unloading the 1,210 MMcf/d Southern System.

Given that current SoCalGas transmission services are currently "firm" service by any reasonable operationally founded definition, and given the low probability of problems in the future, the reliance on the possibility of future constraints that have a low probability of occurring is unwarranted as a basis for shifting from the current system to the FAR program.

1. **Even if There Were a Probability of Constraints Occurring in the Future, the FAR Proposal Adopted in the PD Would Not Avoid Prorationing in Constraint Situations.**

Even if there were a probability of constraints in the future, the FAR program as adopted in the PD would not avoid prorating capacity. In the PD's view, if there were to be a problem, it would be in the Southern Zone. However, the PD states:

> If a funding party builds new capacity or expands existing capacity on a displacement capacity basis at Otay Mesa, up to 700 MMcfd, and the funding party pays for it on an incremental cost basis, the funding party shall receive a Step 1 set aside at Otay Mesa in the open season for the capacity that the funding party paid for. The capacity shall be subject to the scheduling right limitations described in section 7.b. of Exhibit A of Exhibit 85.

PD at 73. Exhibit A of Exhibit 85 is the Joint Proposal. Section 7.b of the Joint Proposal provides for *pro rata allocations* in the Southern zone if Cycle 1 scheduled flows into the zone exceed total available capacity. Thus, under the FAR proposal as adopted by the PD, parties might hold "firm" receipt point rights in the Southern Zone and be obligated to pay firm access charges, *but they would still be subject to pro rata reductions*.

Likewise, under the FAR proposal as adopted by the PD, if a funding party pays for new capacity or an expansion of existing capacity on a "displacement" basis at points outside of the

Southern Zone, the funding party would get a Step 1 set-aside and, with it, a firm access right, but the funding party would nevertheless be subject to capacity reductions:

> If the funding party builds new capacity or expands existing capacity on a displacement capacity basis, and the funding party pays for it on an incremental cost basis, the funding party shall receive a Step 1 set-aside for the capacity that the funding party paid for, *but that set-aside shall be subject to nominations at other receipt points in the same transmission zone*.

PD at 74 (emphasis added). Thus, under the FAR proposal as adopted in the PD, both holders of firm access rights in the Southern Zone and holders of firm access rights elsewhere that pay for capacity expansions on a "displacement" basis would be eligible for a Step 1 set-aside, would get "firm" access rights, would pay firm access charges, but would still be subject to capacity reductions. The PD's FAR program would not eliminate pro-rationing in capacity constraint situations.

2. <u>Tailor-made Solutions to Capacity Constraints Are Preferable to the PD's FAR Program.</u>

A preferable solution to future capacity constraints on the SoCalGas Southern System, should they occur, would be to adopt tailor-made capacity allocation protocols as was done for the Wheeler Ridge Zone and the NDTZ. As shown by the record, those protocols have worked. Tailor made solutions that are targeted to specific localized problems are preferable to broad-brush system-wide solutions. This is particularly true when a system-wide solution would fail to address a localized problem, as under the PD.

B. The PD Erroneously Contends that Currently There Is No Citygate Market for Southern California.

The PD contends: "Adopting a system of FAR will also result in the creation of a citygate market for southern California," implying that there is *not* a citygate market currently. That is false. It is undisputed that, currently, there is a deep, highly liquid market that encompasses all of the SoCalGas receipt points. That is a citygate market, although in industry jargon it is typically called the SoCalGas "border" or "Topock" market. Regardless of the name that the price reporting services use for the market, the existing highly liquid market is a citygate market, and the citygate consists of the receipt points for which SoCalGas accepts nominations.

Under the FAR proposal as adopted in the PD, a new "citygate" market would be established. It would be at precisely the same place physically as the current southern California market, the SoCalGas receipt points. It would be separated from the upstream citygate market only in that a 5¢ charge would have to be paid by market participant for gas to be deemed to be at the new citygate.

C. The PD Erroneously Assumes that Upstream Pipelines Should Not Be Permitted to Confirm Nominations on the Basis of Their Own Scheduling Protocols.

Currently, customers nominate deliveries of gas through SoCalGas receipt points. SoCalGas passes the nominations upstream to the serving interstate pipelines. The interstate pipelines then confirm the delivery of gas into SoCalGas for the customers' accounts. The interstate pipelines confirm the nominations on the basis of their own scheduling protocols. The PD erroneously assumes without explanation that it would be a good thing if, as under the FAR program, the interstate pipelines' scheduling protocol were not taken into account in scheduling gas. However, if the interstate pipelines' protocol were not taken into account, market participants that hold firm access rights could nominate gas from a shipper holding only interruptible rights and have the gas flow in preference to gas from firm rights holders. That would devalue firm rights on interstate pipelines.

A devaluation of firm interstate pipeline rights could discourage parties from holding firm interstate pipeline rights, diminishing interest in entering into contracts for interstate pipeline capacity. The Commission has expressed its concern that parties should hold capacity to California. *See* Decision ("D.") 04-01-047 (Jan. 22, 2004) (opinion establishing cost allocation for El Paso turned-back capacity). Devaluation of interstate pipeline capacity would be contrary to the Commission's policy of encouraging the holding of firm rights to California receipt points.

D. The PD Erroneously Contends that Because FAR Schemes of One Sort or Another Have Been Considered for SoCalGas for Nine Years, the "Time Is Ripe" to Adopt a FAR Program Now.

The PD asks "whether we should change the existing market structure for southern California now or whether we should wait to see how the future develops." PD at 62. The PD observes that "FAR-type" proposals for southern California have been considered over a "span of nine years." PD at 62. From that, the PD concludes that "the time is ripe" to adopt the proposed FAR program. *Id.* The mere fact that one type of proposal or another have been considered during the last nine years does not mean the currently proposed FAR scheme should be adopted. The fact that no FAR scheme has been adopted for nine years has allowed the SoCalGas system to get to the point where it is now, with highly reliable service and without access charges being imposed. This is an excellent result. The Commission's hesitancy in adopting a FAR-type scheme for SoCalGas during the last nine years has been beneficial for customers, not harmful.

E. The PD Errs in Concluding that the Adoption of a FAR-Type System for PG&E Means that a FAR System Should Be Adopted for SoCalGas/SDG&E.

The PD observes that, through the Gas Accord, a "FAR-type" system was adopted for PG&E. The PD opines that "the basic underlying system of firm tradable transmission rights has worked and functioned well in northern California." PD at 63. The only support for the conclusion the Gas Accord "has worked and functioned well in northern California" is a passage from D.03-12-061:

> The evidence shows that the Gas Accord structure has resulted in many gas procurement options and strategies for core and noncore customers, and for gas marketers. Market participants can arrange to purchase gas supplies at the gas basins, and have their supplies transported over interstate and intrastate pipelines to the citygate or to the end-user. Or they can choose to purchase supplies at the border, and have the supplies delivered over the intrastate system, or they can choose to purchase their gas supplies at the citygate. The unbundled, firm tradable capacity rights has created a secondary market which allows market participants to sell or trade their rights to maximize their gas procurement strategies.

Id. quoting D.03-12-061 (Dec.18, 2003) at 32.

The "many gas procurement options and strategies" that the citation indicates are part of the Gas Accord structure are already available to southern California customers. Under the current structure, market participants can arrange to purchase gas supplies in producing basins and have their supplies transported to an existing southern California citygate market, the highly liquid SoCalGas "border" market. Similarly, customers can choose to purchase their supplies "at the citygate," insofar as the SoCalGas "border" market is a citygate market. There is even a secondary market for "firm tradable capacity" upstream of the current citygate market, insofar as there is a secondary market for interstate pipeline capacity upstream of SoCalGas. There is no need for a secondary market downstream of the existing SoCalGas citygate. Customers are free to shift nominations from receipt point to receipt point at will without having to acquire access rights. A downstream citygate market is necessary only if market participants must acquire access rights as a precondition for moving gas onto the SoCalGas system. SoCalGas customers currently have all of the benefits that are purported to accrue to PG&E customers under the Gas Accord without the burden of paying for entirely new and unnecessary access rights.

Elsewhere, the PD opines that PG&E customers realize a price savings as a result of being able to buy at the PG&E citygate downstream of border points. However, the record unequivocally shows that, at best, the PG&E citygate market trades within a narrow band around the border price plus the cost of transportation to the PG&E citygate. *See* Attachment A.

II. THE PD ERRS IN HOW IT ADDRESSES PROBLEMS THAT WOULD RESULT FROM ADOPTING THE FAR PROGRAM.

The PD errs in addressing problems that would result from adopting the FAR program.

A. The PD Erroneously Contends that the FAR Proposal Will Not Result in Less Flexibility than the Current System.

Even FAR proponents agreed that the FAR program would reduce customers' flexibility in acquiring low cost gas supplies. *See, e.g.,* Tr. 10/1443 (Watson/IP/CMTA/CCC). However, the PD contends that the FAR program would *not* result in less flexibility that the current system. The PD contends that the FAR proposal "would not reduce flexibility, as there will be many different options for market participants to choose from." PD at 77. The PD observes that, under FAR, customers will have various options available to them:

> The two FAR proposals allow the holder of the FAR to move its gas through the designated receipt point to the designated delivery point in southern California. The holder of the FAR will also have alternate rights. These alternate rights allow a holder of a FAR to bring in gas through receipt points within the same zone and through receipt points outside the FAR holder's zone. To the extent there is any unused capacity on the system, interruptible access will be available. Market participants can also turn to the secondary market to meet their needs.

PD at 77-78. The PD misses the point that was repeatedly made on the record by FAR opponents: all of the options that would be available under the FAR program require that market participants acquire access rights and pay access charges. Market participants cannot simply shift nominations from one point to another as they do currently. A new step is added, the acquisition of access rights. The addition of that step results in market participants having less flexibility than they do under the current system.

The PD also contends that "the current system is only flexible when there are not constraints on the system." PD at 77. The PD observes: "During times of high demand and alternative receipt points, that flexibility is not available." What the PD misses is that flexibility is lost under *any* capacity allocation system, including FAR, when capacity is 100 percent utilized, as occurred in 2000-2001 on the SoCalGas system. FAR, like the current NDTZ capacity allocation protocol or the protocol used in the Wheeler Ridge Zone, only *allocates* available capacity. No allocation proposal *adds* capacity. When system-wide capacity is 100 percent utilized, as occurred in 2000-2001, it becomes necessary to add physical capacity by putting steel in the ground, as SoCalGas did when it expanded system-wide capacity from 3,500 MMcf/d to 3,875 MMcf/d after the California energy crisis.

B. Hoarding Can Be Better Addressed by Rejecting FAR than by Imposing High Access Charges.

Adoption of the FAR program would result in the creation of firm access rights that could be hoarded. The PD claims that setting the FAR reservation charge at 5¢/dth/d would act "as a deterrent to market participants hoarding receipt point capacity." PD at 87. The better solution would be to reject the FAR program. Currently, there are no FAR access rights that can be hoarded. Hoarding is exclusively a problem that would be created by the FAR program.

C. The PD Erroneously Addresses the FAR Requirement that SoCalGas/SDG&E Customers Bid Against Marketers for Existing Capacity.

One of the customer complaints the FAR program that was proposed by SoCalGas/SDG&E was that customers who have paid for the utilities' transmission capacity over the years would be forced to bid for access rights against upstream marketers and producers. SCGC OB at 51. SoCalGas/SDG&E proposed that 25 percent of the capacity at each receipt point would be reserved for bidding in their proposed Step 3. The PD rejects the reservation of 25 percent for Step 3. However, as a substitute, adopts a variant of a proposal by Sempra LNG: "The limit on how much end users can bid at any individual receipt point in Step 2 shall be limited to the historical utilization by month at each individual receipt point using the five year average from January 1, 2001 through December 31, 2005, less any Step 1 set-aside capacity." PD at 100. This leaves SoCalGas/SDG&E on-system customers with the problem of having to compete in Step 3 for capacity for which the customers have paid for years.

D. The PD Fails to Distinguish the Access Charges that Would Be Approved Here from the Access Charges that Were Found to Be Illegal in *Union Pacific Fuels*.

The PD recognizes that the FERC decided in *Union Pacific Fuels, Inc., et al. v. Southern California Gas Co., et al.*, 76 FERC ¶ 61,300 (1996), *reh'g den.*, 77 FERC ¶ 61,283 (1996), that an access fee cannot be charged to interstate pipeline shippers with a right to nominate gas into the SoCalGas system. PD at 81. The PD purports to distinguish the access charges under the FAR proposal from the access charge that the FERC considered in *Union Pacific Fuels*: The PD states: "The holder of the FAR has the firm right to have its gas transported over the transmission system to the citygate." PD at 81. On this basis, the PD concludes "that the reservation charge is not unlawful under the holding of *Union Pacific Fuels*." *Id.*

The PD's attempt to distinguish FAR access charges from the access charges at issue in *Union Pacific Fuels* fails. Simply labeling access charges as being transportation charges is insufficient. In fact, the holder of firm access rights under the FAR proposal would not have gas transported across the SoCalGas transmission system. The citygate that would be established under the PD's FAR program would be established at the *receipt points*, not at some point downstream where the SoCalGas/SDG&E "backbone" high pressure transmission system interconnects with the local transmission system. The charge at issue here is an *access charge*, not a transportation charge.

III. THE PD FAILS TO ADDRESS ISSUES RAISED BY THE FAR PROPOSAL.

Through their testimony and briefs, parties raised issues that are left unaddressed by the PD. The FAR program should not be adopted without the issues being considered and addressed.

A. The FAR Program Would Degrade the Liquidity of the Currently Robust Southern California "Border" Market for Gas.

Various parties, including SCGC, explained through testimony and briefs that the liquidity of the currently robust southern California citygate or "border" market for gas would be eroded as a result of the FAR proposal. *See* SCGC OB at 29-31. In addition to the current citygate market, there would be the new citygate market located 5¢ downstream from the current citygate market. Further, as witnesses observed in their testimony, there would be a potential for separate markets to be established at various receipt points, further degrading the liquidity of the current market. Reduced liquidity tends to increase price volatility and create the potential for commodity price increases.

B. The PD Fails to Address the Windfall Benefits that Would Redound to SoCalGas/SDG&E if FAR Were Adopted.

The PD fails to even mention let alone explain and justify the multiple benefits that adoption of the FAR program would confer upon SoCalGas/SDG&E:

Enhanced Revenues: Even though SoCalGas/SDG&E already enjoy 100 percent balancing account protection for recovery of their revenue requirement, revenue requirement recovery would be further strengthened by adding the entirely new access charges. If SoCalGas sold 100 percent of the 3,875 MMcf/d of FAR capacity at 5¢/dth/d, which SCGC believes would be a realistic outcome of the open season, SoCalGas would recover approximately $72 million. SCGC Reply Brief ("RB"), Att. B; *see* Attachment B hereto. The sale of interruptible access rights at 5¢/dth would further enhance revenues. Although only $5 million per year of interruptible access charge revenues could be permanently retained by SoCalGas shareholders, the full amount of firm and interruptible access charge revenues would increase SoCalGas cash flow. Enhanced cash flow, in itself, would financially benefit SoCalGas/SDG&E.

Reduced Risk of Revenue Requirement Recovery: To the extent to which customers acquire firm access rights and pay access charges on a reservation charge basis, SoCalGas/SDG&E would shift recovery of their revenue requirement from volumetric charges to reservation charges. That would shift the risk of non-utilization of capacity away from SoCalGas/SDG&E to customers. This shift would be especially burden EGs, which tend to be lower load factor customers.
The PD exacerbates the burden by rejecting SCGC's proposal that annual or "baseload" bids for firm access rights be given preference over monthly or seasonal bids. PD at 101. Currently, EGs pay 100 percent volumetric rates. The benefits of volumetric rates would be eroded to the degree to which EGs are subjected to reservation charges. Erosion of the benefit of volumetric rates for EGs would tend to make southern California less attractive as a site for electric generation.

Reduced Bypass Risk: The FAR program shifts risk to customers as a result of customers being required to sign contracts that have terms longer than the current two-year terms. The longer the contract term, the more SoCalGas is insulated from bypass risk. The PD would allow contracts for existing capacity awarded in Steps 1 and 2 of the FAR open season to be three-year contracts, 50 percent longer than the current two-year contracts. Further, Step 3 contracts would be permitted to range "from three years to 15 years." PD at 102. It is unexplained in the PD whether terms longer than three years would be allowed for *existing* capacity awarded in Step 3 as well as *expansion* capacity. *Id.* In any event, longer terms proportionally reduce bypass risk.

Shift Capacity Planning Responsibility: The FAR access rights program would shift the capacity planning function, including the risks of poor planning, from SoCalGas to its customers. Under the FAR program, SoCalGas would expand receipt point capacity when customers demonstrated a willingness to fund an expansion by bidding in Step 3 of the open season for expansion capacity. This is precisely the same shift of planning responsibility from the utility to customers that SoCalGas/SDG&E attempted with potentially constrained local transmission systems. The Commission found:

> To some customers, SDG&E and SoCalGas may be offering a Hobson's choice: commit to 5 or 10 year use-or-pay firm daily transportation payments or risk the utilities maintaining an undersized local transmission system.
>
> While such an approach would likely ensure that the utilities did not overbuild, there are many countervailing considerations that we must weigh. Under such an approach, if an individual shipper could not predict its needs as much as 10 years in advance, then the utility would not commit to provide service. Shippers that are not privy to the detailed, area-specific demand information in the possession of the utility would be required nonetheless to determine the need for committing to a use-or-pay contract. Equipped with imperfect information, individual shippers are much more likely to make inefficient decisions.

D.06-09-039 at 57. The Commission permitted SoCalGas and SDG&E to hold open seasons for local transmission capacity, but "[if] nominations exceed the available capacity, then our expectation is that the utility will promptly upgrade the system." *Id.* at 63. SoCalGas and SDG&E were not permitted to evade their system planning responsibilities.

The same concerns that troubled the Commission in R.04-12-004 (Phase II) regarding SoCalGas attempts to shift the responsibility for local transmission planning to customers apply here. SoCalGas/SDG&E are attempting to shift the burden for receipt point capacity planning to customers. The PD is devoid of even a mention of this concern even though the PD was mailed more than a month after the issuance of D.06-09-039.

There should be a thorough ongoing evaluation of the multiple benefits that FAR would confer upon SoCalGas/SDG&E to the detriment to customers. The FAR program should not be approved without such an evaluation.

C. The PD Fails to Analyze Shifts of Revenue Requirement Recovery that Would Result from Adoption of the FAR Program.

The FAR program would shift SoCalGas/SDG&E revenue requirement recovery from customers that buy gas at the new citygate to customers that acquire access rights and from high load factor FAR customers to lower load factor FAR customers. *See* SCGC OB at 64-68. There would be other shifts of revenue requirement recovery as well. These shifts of revenue requirement recovery would be effected outside of a BCAP proceeding and without the close scrutiny that is given to reallocation of SoCalGas/SDG&E revenue requirement recovery in BCAPs. The PD fails to mention, let alone analyze, the shifts in revenue requirement recovery or the potential consequences of the shifts.

D. The PD Approves Reservation Charges for Firm Access Rights Without any Analysis of the Need for a Corresponding Modification of the Peaking Rate Reservation Charge.

The PD approves reservation charges for firm access rights without analyzing the need for a corresponding modification of the peaking rate reservation charge. The alleged purpose of the

SoCalGas peaking rate is to close the "regulatory gap" between SoCalGas volumetric transmission rates and the two-part rates of competing interstate pipelines that include a demand charge. Under the peaking rate, reservation charges are imposed upon a bypassing customer that desires to retain a call upon SoCalGas to deliver gas.

The PD approves the FAR firm access charge of 5¢/dth/d, which is a reservation charge. No party contended that it was necessary for SoCalGas to charge *two* reservation charges to close the regulatory gap, which would occur if the FAR proposal were adopted and the peaking tariff were retained without change. The FAR reservation charge should be netted against the peaking rate reservation charge if the FAR charge were to be adopted. SCGC RB at 64-66. The PD omits discussion of this issue.

IV. CONCLUSION.

For the reasons set forth above, SCGC respectfully requests that the Commission reject rather than adopt the FAR proposal, and that the Commission adopt the Joint Proposal. SCGC further respectfully requests that the Commission adopt the revised findings of fact and conclusions of law as set forth in Attachment C hereto.

Respectfully submitted,

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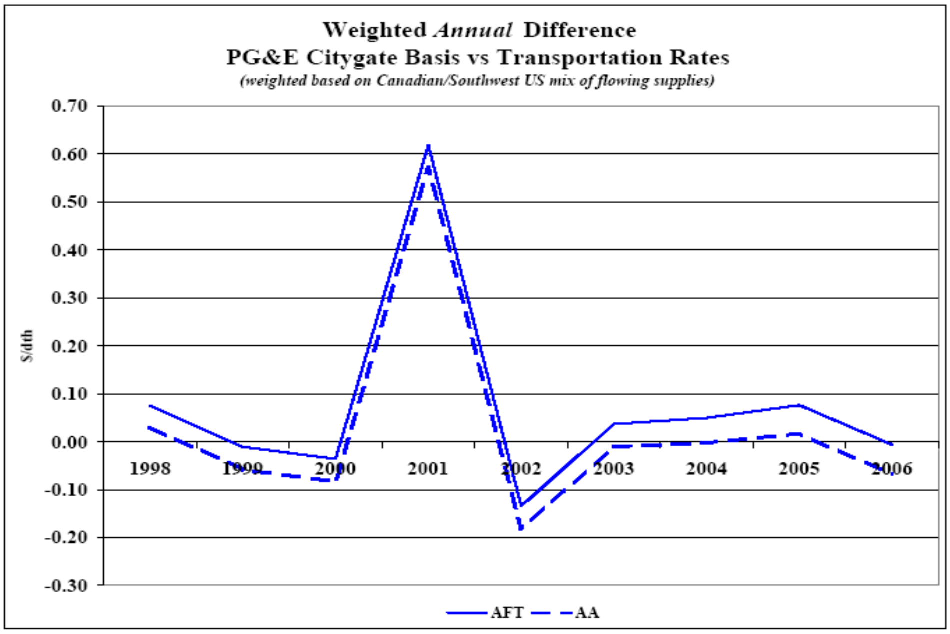
Dated: November 20, 2006

ATTACHMENT A



Attachment B: Revenues Generated by FAR Proposals

	SoCalGas FAR Proposal	WICC FAR Proposal
Proposed FAC Reservation Rate	$0.05/dth/day	$0.1575/dth/day
Proposed IAC Rate	$0.05/dth	$0.1890/dth
Revenues if sold 66% of FAR capacity /1	$47,500,000	$149,625,000
Revenues if sold 100% of FAR capacity	$71,850,250	$226,328,288
Revenues if sold 10% of capacity @ IT	$7,185,025	$27,159,395
Revenues of sold 20% of capacity @ IT	$14,370,050	$54,318,789
Total Revenues Earned under Scenarios:		
(1) FAR Capacity Sold at 66%, plus 10% @IT	$54,685,025	$176,784,395
(2) FAR Capacity Sold at 100%, plus 10% @IT	$79,035,275	$253,487,682
(3) FAR Capacity Sold at 100%, plus 20% @IT	$86,220,300	$280,647,077
Reduction in Volumetric Transportation Rates		
(1) FAR Capacity Sold at 66%, plus 10% @IT	$52,888,769	$157,300,000
(2) FAR Capacity Sold at 100%, plus 10% @IT	$77,239,019	$157,300,000
(3) FAR Capacity Sold at 100%, plus 20% @IT	$82,627,788	$157,300,000
Net Increase in SoCalGas Earnings		
(1) FAR Capacity Sold at 66%, plus 10% @IT	$1,796,256	$19,484,395
(2) FAR Capacity Sold at 100%, plus 10% @IT	$1,796,256	$96,187,682
(3) FAR Capacity Sold at 100%, plus 20% @IT	$3,592,513	$123,347,077

/1 This level of capacity utilization corresponds to the forecast volume in current BCAP rates.

ATTACHMENT C

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

FINDINGS OF FACT

1. The origin of this proceeding can be traced back to R.98-01-011 wherein we considered and identified appropriate reforms to the natural gas market structure in California.

2. D.99-07-015 acknowledged that PG&E's Gas Accord market structure should be considered for SoCalGas.

3. D.01-12-018 adopted the CSA, which called for a system of firm tradable transmission rights on SoCalGas' backbone transmission system, the unbundling of the backbone costs from transportation rates, and an at-risk rate structure for the recovery of the backbone transmission costs.

4. D.04-04-015 adopted the tariffs to implement D.01-12-018, but due to another proceeding, D.04-04-015 was stayed and extended in D.04-09-022 until further notice.

5. D.04-09-022 directed SDG&E and SoCalGas to file an application regarding their system integration and FAR proposals.

6. The system integration issue was addressed in the first phase of this proceeding in D.06-04-033.

7. Due to the difference between the delivery capability of the upstream gas supplies and the take-away capacity of the receipt points on the SDG&E and SoCalGas integrated transmission system, problems in the delivery of gas can result.

8. Under the current system of allocating capacity on the SDG&E arid SoCalGas transmission system: (1) end use customers are the only ones who can transport gas; (2) SoCalGas allocates the available receipt point capacity to the upstream pipelines daily; and (3) the upstream interstate pipelines allocate the capacity among their shippers using their FERC-approved capacity allocation rules.

9. The current system of capacity allocation can result in a situation where ~~access to the system is available only on an interruptible basis,~~ shippers' gas supplies are pro-rated, and receipt points are constrained.

10. SDG&E and SoCalGas' FAR proposal would allocate access rights to the capacity at a particular receipt point on the integrated transmission system to various market participants using a three-step open season process.

11. The two major differences between the unbundled FAR proposal and the FAR proposal is the unbundling of backbone transmission costs from transmission rates, and putting SDG&E and SoCalGas at-risk for the recovery of the backbone transmission costs.

12. DRA's proposal allocates FAR to end use customers based on the current allocation of intrastate gas transmission costs in the last BCAP, excluding the California gas production receipt points.

13. The Joint Proposal addresses a process for granting scheduling rights for new or expanded receipt point capacity, and a process for granting scheduling rights for new or expanded receipt point capacity in the Southern transmission zone.

14. This phase of the proceeding revisits many of the same issues that were considered when the CSA was adopted, and the various parties continue to disagree on what kind of market structure is best for southern California.

15. The time is **not** ripe to adopt a system of FAR for southern California.

~~16. The basic underlying system of firm tradable transmission rights has worked and functioned well in northern California.~~

17. LNG project sponsors, as well as others, seek **the right to schedule gas into** ~~assurance that their gas can be delivered into the receipt points on~~ the SDG&E and SoCalGas transmission systems.

18. ~~Although c~~**C**apacity constraints have ~~not~~ been **handled effectively through the Wheeler Ridge Zone and North Desert Transmission Zone ("NDTZ") scheduling protocols.** ~~much of a problem during the past couple of years, that does not mean these constraint problems have gone away.~~

19. With the possibility of LNG supplies flowing into southern California, and other changes in the gas market, receipt point constraints **are even less likely to occur in the NDTZ and the Wheeler Ridge Zone in the future.** ~~may occur again at other receipt points.~~

20. Under the current system, end users **have a high degree of certainty that** ~~face uncertainty over whether~~ their gas will flow through a constrained receipt point.

21. The **certainty that** ~~uncertainty over whose~~ gas will flow affects the procurement decisions of end users.

22. DRA's proposed allocation method does not provide shippers and marketers with any firm capacity, is likely to result in market participants spending a lot of time to match their needs, and is likely to lead to confusion.

23. The Joint Proposal **creates** ~~is limited to creating~~ scheduling rights for new or expanded receipt point capacity, and does not establish a system of FAR for existing receipt points on the transmission system.

24. The capacity allocation proposals considered in this decision vary from the capacity allocation method contained in the CSA that was adopted in D.01-12-018.

25. According to its terms, the CSA was terminated on August 31, 2006.

26. The FAR proposal **would reduce flexibility for** ~~will continue to provide~~ market participants **and erode the liquidity of the** ~~with flexible options and result in the creation of a~~ citygate **or "border"** market for southern California.

27. The **<u>rejection</u>** ~~adoption~~ of the FAR proposal ~~provides certainty to FAR holders that their gas can be delivered from the receipt point to the citygate, which in turn~~ will encourage parties to enter into long term gas supply contracts.

28. The concerns regarding the FAR proposal's complexity **<u>and</u>**~~,~~ increased costs~~, and affiliate preference~~ are unwarranted.

29. The **<u>access charge</u>** ~~facts~~ addressed in the Union Pacific Fuels decision **<u>is not</u>** ~~are different and~~ distinguishable from the **<u>access</u>** ~~reservation~~ charge**<u>s</u>** that would be assessed on FAR holders.

30. The transmission system has been paid for in rates by the end users of SDG&E and SoCalGas.

31. The FAR reservation charge**<u>s</u>** provide~~s~~ the FAR holder with access to the transmission system.

32. **<u>The FAR access charges would require upstream</u>** ~~It is appropriate that~~ shippers and marketers **<u>to pay</u>** ~~, who have not paid~~ for the cost of the transmission system **<u>and</u>** ~~,~~ pay for a share of the transmission facilities through the reservation charge.

33. The at-risk provision operates in conjunction with the unbundling of the backbone transmission costs and the 15.75 cents per Dth reservation charge.

~~34. A reservation charge lower than the unbundled FAR proposal rate of 15.75 cents per Dth is needed to stimulate participation for holding a FAR.~~

~~35. A FAR system that has a lower reservation charge and no at-risk provision will provide a baseline for determining whether future adjustments to the FAR system are needed.~~

36. Putting SDG&E and SoCalGas at risk would act as an incentive to maximize throughput on their system, which is contrary to the energy efficiency and conservation goals, and is not appropriate at this time.

37. Under the ~~unbundled~~ FAR proposal ~~with the 15.75 cents per Dth reservation charge~~, the low load factor customers who hold FAR are likely to pay a disproportionate share of the backbone transmission costs.

38. ~~The~~ **An** unbundling of backbone transmission costs should not be **undertaken.** ~~included as part of the FAR system at this time.~~

39. The parties proposed a number of modifications to the FAR proposal.

40. The citygate pooling service allows for the aggregation and disaggregation of natural gas at the citygate, and creates a pricing point for customers to buy and sell gas.

41. SDG&E and SoCalGas propose to offer firm backhaul service and interruptible off-system service through backhaul.

42. Off-system service provides gas suppliers with another market to sell their gas.

43. The peaking rate tariff applies to gas transportation service provided to any noncore customer who bypasses SoCalGas, in part or in whole.

44. The multi-unit EG provision used to be in the RLS tariff, but was eliminated when the peaking rate tariff was adopted.

45. The evidence presented in this proceeding has not changed the circumstances behind the adoption of the RLS and peaking rate tariff.

46. If the peaking rate is eliminated, the remaining ratepayers will have to pay higher rates because they will bear the costs that the departing customers would have paid.

47. Without the peaking rate, a bypassing customer who calls on SoCalGas for service would only pay the same rate for gas as those customers who remain on the system.

48. The argument that the peaking rate has discouraged electric generators from siting within SoCalGas' service territory is unpersuasive.

49. D.06-04-033 described why the peaking rate does not apply if SDG&E obtains gas at the Otay Mesa receipt point.

50. The evidence does not support the reinstatement of the multi-unit EG provision as part of the peaking rate tariff.

51. The last complete adjudication of the BCAPs for SDG&E and SoCalGas occurred in D.00-04-060.

CONCLUSIONS OF LAW

1. Due to anticipated changes in gas flows, ~~the likelihood that additional gas supplies will flow into California, and the~~ constraint problems **are unlikely to occur in the NDTZ and the Wheeler Ridge Zone.** ~~that have occurred in the past and which can reoccur again, the current system of allocation should be replaced by a system of FAR.~~

2. DRA's proposal is not a practical solution for allocating capacity to market participants and should not be adopted.

3. SDG&E and SoCalGas should abide by ~~incorporate~~ the features of the Joint Proposal**.** ~~that we adopt, as described in this decision, into the adopted FAR system.~~

4. The **Joint Proposal provisions for** ~~conversion of the four types of~~ scheduling right**s** ~~situations into the three-step process of the adopted FAR system, as described in the decision,~~ are appropriate and consistent with prior decisions.

5. D.01-12-018 and D.04-04-015 are now moot as a result of today's adoption of the FAR system.

6. The FAR reservation charge is ~~not~~ unlawful under the holding of Union Pacific Fuels.

7. The credit-back mechanism is ~~not~~ discriminatory**.** ~~and appropriately credits the reservation charge back to those who paid for the transmission facilities in rates.~~

8. SDG&E and SoCalGas' FAR proposal~~, as modified by today's decision,~~ should **not** be adopted as the model for the FAR system, and SDG&E and SoCalGas should incorporate the adopted modifications to the FAR proposal, as described in this decision, into the adopted FAR system.

9. ~~There are no provisions in the~~ **The** Continental Forge or SCE settlements **do not require adopting** ~~that prevent us from adopting~~ the FAR proposal as the model for the FAR system.

10. SDG&E and SoCalGas should **not** be authorized to establish the FAR ~~Memorandum Account to track and recover the costs of implementing the FAR~~ system**.** ~~and the other services.~~

11. SDG&E and SoCalGas should **not** file an AL to implement the tariffs and services needed for the FAR system.

~~12. A review process to assess how the FAR system is working, and whether any changes or modifications are needed, should be initiated by application 18 months after the initial open season has concluded.~~

13. SDG&E and SoCalGas' proposal to offer a pooling service should be approved, and an AL should be filed to implement the tariff and services needed for the pooling service.

14. ~~To the extent the costs of implementing the pooling service are not included in the FAR system implementation costs,~~ SDG&E and SoCalGas should be allowed to track and recover from all ratepayers the reasonable costs of implementing this service up to a maximum of $2 million.

15. SDG&E and SoCalGas' proposal to offer off-system delivery service to PG&E, as modified by our discussion in this decision, should be approved, and an AL should be filed to implement the tariff and services needed for the off-system delivery service.

16. The use of SoCalGas' transmission facilities to transport gas to points outside of California raises FERC jurisdictional issues, and has operational ramifications for intrastate transmission.

17. SDG&E and SoCalGas should be permitted to file an application to offer off-system service to pipeline interconnections other than PG&E no earlier than May 1, 2008.

18. The SoCalGas peaking rate tariff should continue in effect, and the multi-unit EG provision should not be included as part of the peaking rate tariff.

19. SDG&E and SoCalGas should file their BCAP applications no earlier than July 1, 2008.

ORDER

IT IS ORDERED that:

1. A firm access rights (FAR) system is **rejected as a** ~~adopted as the~~ new gas market structure for the integrated gas transmission system of San Diego Gas and Electric Company (SDG&E) and Southern California Gas Company (SoCalGas).
   - ~~a. The adopted FAR system shall be comprised of the SDG&E and SoCalGas FAR proposal, the adopted features of the Joint Proposal, and the adopted modifications to the FAR proposal, as described in this decision.~~
   - ~~b. SDG&E and SoCalGas shall incorporate all of these adopted elements into the FAR system.~~
2. SDG&E and SoCalGas are authorized to offer a gas pooling service on the SDG&E and SoCalGas integrated transmission system, and an off-system delivery service to Pacific Gas and Electric Company (PG&E).
3. SDG&E and SoCalGas shall file appropriate advice letters (AL) to implement ~~the FAR system,~~ the gas pooling service~~,~~ and off-system delivery service to PG&E.
   - a. The ALs shall contain the tariff and service offerings, and shall be consistent with, and in compliance with today's decision.

b. The ALs shall be filed within 45 days of the effective date of this decision. The ALs are subject to protest, and such protests shall be filed within 20 days after the ALs have been filed.

c. SDG&E and SoCalGas shall serve the ALs by e-mail on the service list to this proceeding, as well as on interested parties who have requested notification of AL filings for SDG&E and SoCalGas.

4. The ~~FAR system, the~~ gas pooling service~~,~~ and the off-system delivery service to PG&E shall be implemented and operational beginning no later than 365 days after a decision, resolution, or Energy Division has approved the implementing tariffs and related services.

5. SDG&E and SoCalGas are **<u>not</u>** authorized to establish the FAR Memorandum Account to track and recover the costs of implementing the FAR system and the other services.

a. ~~To the extent the costs of the pooling service are not included in the estimate of the FAR system implementation costs,~~ SDG&E and SoCalGas are authorized to track and recover from all ratepayers the reasonable costs of implementing the pooling service, up to a maximum of $2 million.

~~6. A review process of the FAR system will be conducted to assess how the FAR system is working, and whether any changes or modifications to the FAR system are needed.~~

~~a. SDG&E and SoCalGas shall file an application 18 months after the initial open season has concluded, and shall include the type of information described in this decision.~~

7. SDG&E and SoCalGas shall be permitted to file an application, no earlier than May 1, 2008, to offer off-system service to pipeline interconnections other than PG&E.

a. The application shall include the type of information described in this decision.

8. The SoCalGas peaking rate tariff shall continue in effect, and the proposal to include the multi-unit electric generation provision into the peaking rate tariff is not adopted.

9. SDG&E and SoCalGas shall file their Biennial Cost Allocation Proceeding applications no earlier than July 1, 2008.

10. This proceeding is closed.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **SOUTHERN CALIFORNIA GENERATION COALITION COMMENT ON PROPOSED DECISION** on the service list established for A.04-12-004 by serving a copy to each party by electronic mail, or by mailing a properly addressed copy by first-class mail with postage prepaid to each party unable to accept service by electronic mail.

Executed on November 20, 2006, at Los Angeles, California.

/s/ Rosemarie F. McBride

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Rosemarie F. McBride

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